

# **STRATA TITLES INSTITUTE OF WESTERN AUSTRALIA INCORPORATED**

## ***Code of Ethics***

***IT IS A CONDITION OF CONTINUING MEMBERSHIP OF THE INSTITUTE THAT MEMBERS CONSISTENTLY APPLY THIS CODE TO THE CONDUCT OF THEIR BUSINESS WITHIN THE STRATA TITLES PROFESSION.***

### **1. INTRODUCTION**

- 1.1 This code is published as a clear statement of what is the minimum acceptable standard of ethical conduct for members.
- 1.2 Ethics are rules of conduct based on honesty, integrity, fairness, courtesy and mutual respect.
- 1.3 Where a member is in doubt as to the application or interpretation of the provisions of this Code, they may apply to the Council for advice on the matter.

### **2. PROFESSIONAL INTEGRITY**

- 2.1 To merit the confidence and trust of the community, the respect of colleagues and clients and the support of the Institute, a members reputation for integrity and service must at all times be beyond question or legitimate challenge.
- 2.2 Members shall uphold all of the ethical and professional standards of the Institute and their respective profession as may be applicable to the provision of their services and advice.
- 2.3 Members shall not engage in conduct (whether in pursuit of their profession or otherwise) which is unlawful, unprofessional, dishonest or which may otherwise bring the member or the Institute into disrepute.
- 2.4 Members shall not act in a harsh or unconscionable manner or participate in any activities, which may mislead, deceive or call their professional integrity into question.

### **3. DILIGENCE AND COMPETENCE**

- 3.1 Members shall at all times use due care and diligence before acting or advising a client to act in respect to matters about which the members services or advice are sought.
- 3.2 Members shall ensure that their business is efficiently and properly administered and shall take all reasonable and practicable steps to ensure that professional engagements are fulfilled in accordance with the agreed terms of that engagement and that prompt notice is given if they cannot be fulfilled as agreed or expected.
- 3.3 Members shall accept full responsibility for professional advice or any service provided and shall ensure that they competently discharge their duty to their clients so as to promote and protect their client's best interests.
- 3.4 Members shall at all times use their best endeavours to provide any advice or service or carry out any work on behalf of a client within the agreed time or if time is not of the essence, then as soon as is reasonably possible and if a member receives instructions and it is or becomes apparent that they cannot complete the work within the agreed or a reasonable time, they shall so inform their client.
- 3.5 Members shall not accept or undertake professional responsibilities beyond their competence or authority nor allow their employees to do so.

### **4. DUTIES TO CLIENTS**

- 4.1 Members, giving due regard to their special training and experience, to the client's position of dependence upon them, and the degree of trust which a client is entitled to place on a member shall treat their clients fairly and in good faith,.
- 4.2 Members shall keep their clients fully and promptly informed of all significant, material and relevant information, their rights, responsibilities and possible courses of action regarding any matter entrusted to them by their clients.
- 4.3 Members are under a duty to be knowledgeable about the law, proposed legislation or other essential facts and policies relevant to the strata titles profession and to provide their clients with the full benefit of their knowledge.

- 4.4 Members shall not express an unconsidered opinion, shall always disclose all pertinent and material information and ensure that their client fully understands and appreciates the significance of any information or advice provided.
- 4.5 Clients are not required to check that what a member tells them or leads them to believe is correct and members should not make assumptions about the degree of a person's expertise, experience, intelligence or their knowledge of the English language when assessing that understanding.
- 4.6 Members shall at all times protect their clients and the public by ensuring any service or advice provided by them or their employees is without error, exaggeration, concealment or any form of deceptive or misleading representation.
- 4.7 Members shall on the proper request, as defined by Section 43 of the Strata Titles Act, of a client or a proprietor, or the authorised representative of either of them, promptly and fully make available all records, which are in the members custody, for inspection

## 5. FINANCIAL TRANSACTIONS

- 5.1 Members shall account fully and promptly to their clients for the receipt by them of moneys or other property of value for or on behalf of each client.
- 5.2 Members shall account fully and promptly to their clients for the payment by them of moneys or disposal of property of value for or on behalf of each client.
- 5.3 Members shall take all reasonable care to not allow the funds of any client to be deposited into, co-mingled or paid from the funds of any other client.

## 6. SUPERVISION OF EMPLOYEES

- 6.1 Members shall take all reasonable care to ensure that any employee or other person acting on behalf of the member shall comply with this Code and the member shall accept full responsibility for any non-compliance on the part of any such employee or other person.
- 6.2 Members shall properly supervise and be responsible for all professional work or service carried out or provided on their clients behalf by an employee of the Member.

## 7. CONFIDENTIALITY

- 7.1 Members shall maintain a professional relationship of trust and confidentiality with their clients and shall not publicly express any opinion or disclose any information, which may be detrimental to the reputation or business of a client.
- 7.2 Members shall not reveal facts, data or information obtained in a professional capacity without the prior consent of their client or employer, except as may be required by law.
- 7.3 Members shall conserve their duty of confidentiality in respect to their clients without limit in time and with due regard to any possible conflict of interest with the interests of any other client.
- 7.4 Members shall take all reasonable measures to keep safe and secure any records or other property which their clients place in their custody and shall return any such records or property, pursuant to Section 48 of the Strata Titles Act 1985, when properly instructed or requested to do so.

## 8. CONFLICT OF INTEREST

- 8.1 Members must not allow a position to be reached where the members' duty to a client and the members' own interest is in conflict with that of their client.
- 8.2 Members shall immediately advise their client of a possible or actual conflict of interest and the action they propose to take to resolve the matter.
- 8.3 Members shall not give advice to a person when they know that the interests of that person are in conflict or likely to be in conflict with the interests of their client other than the advice to secure the services of another adviser.
- 8.4 Members shall not demand, accept or retain any form of consideration for a particular service from more than one client without disclosing the circumstances and receiving prior approval from all of the parties concerned.
- 8.5 Members shall not without the prior written consent of their client be directly or indirectly concerned or interested in a business or transaction in which the member stands to gain as a result of their relationship with their client.

**9. REMUNERATION**

- 9.1** Members shall be entitled to seek and receive a fee for services or advice provided and such fee shall be agreed to in advance with their client. The onus of proof that there was prior agreement to the fee charged lies with the member.
- 9.2** Members shall provide their services or advice in such a manner as to not unnecessarily increase costs to the client.

**10 OBLIGATION TO THE INSTITUTE AND ITS MEMBERS**

- 10.1** Members shall comply with the Institute's decisions and directions on questions of ethics and conduct.
- 10.2** Members shall conduct themselves and their business dealings so as to minimise the possibility of controversy with another member of the Institute and shall not publicly criticise another member.
- 10.3** Members shall use every endeavour to resolve any dispute between themselves and another member in a professional and amicable manner.
- 10.4** Members shall cooperate with other members other than where to do so would be a breach of client confidentiality.
- 10.5** Members shall not knowingly assist or seek to induce a breach of this Code by another member.
- 10.6** Members who are the subject of any investigation by the Council or are requested to respond to any questions or complaints in accordance with the Constitution shall provide all reasonable assistance to and shall not hinder the Council in its investigations and deliberations.

**11. DUTIES TO PROFESSIONAL BODIES**

- 11.1** Members shall endeavour to advance the strata titles profession, the objects of the Institute and professional bodies of which they are also members and shall continue their professional development throughout their career and similarly encourage the development of their employees.
- 11.2** Members shall, to the best of their ability, participate in the activities of the Institute and contribute in every way available to promote the interests and reputation of the Institute.

**12. PROFESSIONAL COURTESY**

- 12.1** Members shall treat other members and their professional colleagues with the utmost courtesy and fairness.
- 12.2** If a member observes that another member is likely by error or oversight, to involve the other members client in material loss, delay, unlawful or any other action which may prejudice that clients interests, they shall, except when doing so might prejudice their own client, draw the attention of the other member to that error or oversight.
- 12.3** Members shall not discriminate against any member or any other person by reason of the colour, race, ethnic or national origins, sex, marital status or religious beliefs of that other member or person.

**13. UNFAIR COMPETITION**

- 13.1** Members shall build their reputation on merit and shall refrain from any form of unfair competition, including:
- a)** using a professional designation to which they have no entitlement;
  - b)** neglecting to comply with provisions of rules or regulations governing the practice of the strata title profession;
  - c)** advertising in a fraudulent or misleading manner or in any way that is not in the public interest.
- 13.2** Members who are aware of a current arrangement, which obliges a client to pay a fee to another member, shall not solicit the business of that client in such manner as may imply that the other member is not competent to deal with that or any other matter.
- 13.3** Members shall not directly or indirectly solicit the services of any employee of another member.
- 13.4** Members shall not offer inducements or other forms of consideration to any person which are not directly associated with the provision of the members services or advice.

